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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,952	01/19/2007	Sylvia Monsheimer	296033US0PCT	8700
22850 7590 03/23/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER SMITH, JEREMIAH R				
ART UNIT 1791		PAPER NUMBER		
NOTIFICATION DATE 03/23/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/592,952

**Applicant(s)**

MONSHEIMER ET AL.

**Examiner**

JEREMIAH SMITH

**Art Unit**

1791

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Joseph S. Del Sole/  
Supervisory Patent Examiner, Art Unit 1791

Continuation of 11, does NOT place the application in condition for allowance because: applicant's arguments are not persuasive. Applicant argues that the finding that selectivity can be achieved by printing an absorber is an unexpected result. This is not an unexpected result because the application of an absorber using "ink jet technology" to "create highly precise material removal or modification in three dimensions" was known by the secondary reference Neev at column 42 lines 39-53. Applicant further argues that "Podszun does not appreciate problems with mere selective laser sintering". However, Podszun does recognize that the limited accuracy of 3D objects is a known problem in the field at page 1 lines 26-27. Although Podszun teaches a technique to alleviate this problem Podszun would certainly teach a skilled artisan to consider other techniques which also address the same problem in order to produce the most accurate 3D object possible. As stated above, Neev teaches the selected application of an absorber in order to create highly precise material modification, thus a skilled artisan would be motivated to use the ink jet technology as taught by Neev. Applicant further argues that Neev utilizes a completely different method having different method steps. However, Neev is merely relied on for teaching selective application of the absorber with an ink jet type applicator to produce highly precise material modification. A skilled artisan would be able to selectively apply the absorber as taught by Neev rather than indiscriminately as in Podszun in an attempt to achieve "highly precise material... modification" as taught by Neev. A skilled artisan need only incorporate aspects of Neev which make this modification possible and does not need to incorporate other aspects of Neev. Applicant further argues that Podszun and Neev are not analogous art. Applicant points out that there are differences in the methods of Podszun and Neev to support this assertion. However, Podszun and Neev certainly address the same problem, i.e. precision/accuracy in material modification in three dimensions. Note that motivation to combine references can be found in a common nature of the problem to be solved as described in MPEP 2143.01 (I). Applicant further argues that the mere fact that a substitution could be made does not provide reason why the substitution would be made by a skilled artisan. However, Podszun recognizes the problem of accuracy in 3D and Neev teaches that this exact issue can be addressed by using an absorber applicator with ink jet technology. Applicant further argues that the examiner has not shown that there are a "finite number of identified, predictable solutions"; however, the examiner is not relying on an "obvious to try" motivation as described in MPEP 2141 (III) and is instead asserting that Podszun teaches that 3D precision is a known area for improvement in the field and Neev teaches the use of an absorber to "create highly precise material... modification in three dimensions", therefore a skilled artisan would be motivated to incorporate aspects of Neev to produce the highest degree of precision possible.